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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,447	01/31/2000	Satoru Niwa	1832/40	4868
23838	7590	10/08/2003	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005				BURCH, MELODY M
		ART UNIT		PAPER NUMBER
				3683

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/495,447	NIWA, SATORU
	<b>Examiner</b>	<b>Art Unit</b>
	Melody M. Burch	3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 July 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-29 and 32-47 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 2-4,6-14,18-29 and 37-47 is/are allowed.

6) Claim(s) 5,15-17 and 34 is/are rejected.

7) Claim(s) 32,33,35 and 36 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 10 July 2003 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4655634 to Loy et al. Loy et al. disclose in figure 4 an electrically controlled braking system including an electrically controlled brake 68, an electric power source device 82, a brake operating member or door assembly 30,36 to which switches 42,44 are connected, and a brake control apparatus 80,120 for controlling an electric energy to be supplied from the electric power source device to the brake, for thereby controlling an operation of the brake, when the brake operating member is operated, the braking system comprising: a switching device 42,44 disposed between the electric power source device and at least one of the brake control apparatus and the brake, the switching device being turned on for connecting the electric power source device to the at least one of the brake control apparatus and the brake, in response to an operation of the brake operating member, wherein the switching device includes a plurality of

switches which are connected in series with each other and which are turned on in response to the operation of the brake operating member (i.e. the operation of door assembly 30,36 as disclosed in col. 5 lines 9-12) that is common to the plurality of switches.

3. Claims 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO 98/12090 (using US Patent 6227626 to Blattert as an English equivalent).

Re: claim 13. Blattert shows in the figure an electrically controlled braking system including an electrically controlled brake 172,173, an electric power source device 100,101, a brake operating member 130, and a brake control apparatus 162,163 for controlling an electric energy to be supplied from the electric power source device to the brake, for thereby controlling an operation of the brake, when the brake operating member is operated, the braking system comprising: a switching device 120 disposed between the electric power source device and at least one of the brake control apparatus and the brake, the switching device being turned on for connecting the electric power source device to the at least one of the brake control apparatus and the brake, in response to an operation of the brake operating member, wherein the electrically controlled brake includes a front brake 173 and a rear brake 172, and the brake control apparatus includes a front brake control device 163 and a rear brake control device 162, the electric power source device includes a plurality of electric power sources which are arranged to supply electric energies to the front brake control device independently of each other as shown.

Re: claim 14. Blattert shows in the figure the rear brake including a first rear brake 172 and a second rear brake 170 and the rear brake control device including a first rear brake control device 162 and a second rear brake control device 160, the first rear brake control device being connected to one of the plurality of power source devices while the second rear brake control device being connected to another one of the plurality of power source devices as shown.

4. Claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6203116 to Dieckmann. Dieckmann shows in the figure an electrically controlled braking system including an electrically controlled brake 16a,16b, an electric power source device 20,22a,22b, a brake operating member 4, and a brake control apparatus 14a,14b for controlling an electric energy to be supplied from the electric power source device to the brake, for thereby controlling an operation of the brake, when the brake operating member is operated, the braking system comprising: a switching device 10 disposed between the electric power source device and at least one of the brake control apparatus and the brake, the switching device being turned on for connecting the electric power source device to the at least one of the brake control apparatus and the brake, in response to an operation of the brake operating member, wherein the electrically controlled brake includes a front left brake 16a bottom, a front right brake 16a top, a rear left brake 16b bottom, and a rear right brake 16b top, and the brake control apparatus includes a front left brake control device 14a bottom, a front right brake control device 14a top, a rear left brake control device 14b bottom, and a rear right brake control device 14b top, the electric power source device including a front left

brake power source 22a and a front right brake power source 20 which are arranged to supply electric energies to the front left and right brake control devices, respectively, independently of each other, and a common rear brake power source 22b arranged to supply an electric energy to both of the rear left and right brake control devices.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 17, and 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO 98/12090 (using US Patent 6227626 to Blattert as an English equivalent) in view of US Patent 5829845 to Maron et al.

Blattert shows in the figure an electrically controlled braking system including an electrically controlled brake 172,173, an electric power source device 100,101, a brake operating member 130, and a brake control apparatus 162,163 for controlling an electric energy to be supplied from the electric power source device to the brake, for thereby controlling an operation of the brake, when the brake operating member is operated, the braking system comprising: a switching device 120 disposed between the electric power source device and at least one of the brake control apparatus and the brake, the switching device being turned on for connecting the electric power source device to the at least one of the brake control apparatus and the brake, in response to an operation of the brake operating member, wherein the electrically controlled brake includes front

brake 173 wheel brake components and the electric power source device includes a plurality of electric power sources arranged to supply electric energies to a component of the front brake independently of each other, but does not include the details of the wheel brake components including a front rotor rotating with a front wheel, a front friction member, and a front brake actuator.

Maron et al. teach in figures 1 and 2a the use of an electrically actuated front brake shown in the area of element number 14a, the front brake including the following components shown in figure 2a: a front rotor 14 rotating with a front wheel 16a, a front friction member 26, and a front brake actuator 20,22. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the wheel brake components of Blattert to have included a rotor, wheel, friction member, and brake actuator as taught by Maron et al., in order to provide a disk brake, a well-known brake assembly used to apply a decelerating force to a wheel.

#### ***Allowable Subject Matter***

7. Claims 32, 33, 35, and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 2-4, 6-14, 18-29, and 37-47 are allowed.

#### ***Response to Arguments***

9. Applicant's arguments filed 7/10/03 have been fully considered but they are not persuasive. With regards to claim 5, Applicant argues that switches 42 and 44 of Loy

are turned on and off independently of each other. Examiner notes, however, that the argument is more specific than the claim recitation. The claim requires that the switches be turned on in response to the operation of the brake operating member. As broadly claimed, Examiner notes that door assembly 30,36 may be considered as the brake operating member since the opening of the door assembly results in vehicle stoppage and setting of the parking brake as disclosed in col. 5 lines 19-26. It is also noted that the switches 42,44 are turned on in response to the operation of the brake operating member, as broadly claimed. With regards to claim 15, Applicant argues that brake power sources 22a and 22 are not arranged to supply electric energies to the front left element and the front right element, respectively, independently of each noting that source 22 supplies electric energy to both front left and right elements during a normal mode while source 22a supplies electric energy to both the front left and right elements during an emergency mode. Examiner maintains that since power source 22a is not subject to the control of power source 20, and since the power sources separately supply electric power to the front left and right elements as evident by the supply of electric energy at different modes, the power sources operate in a manner that they supply electric energy independently of each other. With regards to claim 16, Applicant argues that Blattert does not teach the limitation of a brake control apparatus for controlling an electric energy to be supplied from an electric power source device to a brake stating that element 163 is connected to brake 173 via mechanical linkage 163a. Examiner maintains that although the connection between the brake control apparatus 163 and the brake is mechanical, the electric energy from the electric power source E1

is still supplied from the source to the brake via the intervening elements between the electric power source and the brake including the mechanical linkage 163. In another perspective of Blattert, the mechanical linkage can be considered as a part of the brake 173.

10. Applicant's arguments, see pg. 9 lines 5-8 from the bottom, filed 7/10/03, with respect to the rejections using the Michaud reference have been fully considered and are persuasive. The 102 or 103 rejections of claims 2-4, 6-12, 18, 19, 21-29, and 38-47 have been withdrawn. Examiner agrees that elements 57 and 58 do not make up the components of a brake but instead make up components of rotation sensing mechanism associated with a rotor 60.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmmb 10/3/03  
mmb  
October 3, 2003

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600